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JUDGE SWEET

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| CAREER GROUP, INC.,<br>Plaintiff,<br>vs.<br>LORI B. ZASLOW, BRYAN J. ZASLOW, and JONATHAN BETH CONSULTANTS INC.,<br>Defendants. | 06 CV 12951<br>No. Civ. 06 CV<br>**COMPLAINT**<br>**JURY TRIAL DEMANDED** |

Plaintiff CAREER GROUP, INC., ("Career Group") by its attorneys, The Lustigman Firm, P.C., as and for its Complaint against defendants LORI B. ZASLOW, BRYAN J. ZASLOW and JONATHAN BETH CONSULTANTS INC. ("JBC"), alleges as follows:

**NATURE OF THE ACTION**

1. Plaintiff Career Group is an administrative placement firm. Defendant Lori B. Zaslow is a former senior executive employee of one of Career Group's divisions, fourthFLOOR Fashion. Prior to her start date, she signed an agreement promising to hold certain trade secrets in confidence. In violation of this agreement, Lori Zaslow began using Career Group's trade secrets to secretly compete with Career Group through defendant JBC, a

corporation that, upon information and belief, she owns along with her husband, defendant Bryan Zaslow. Because of this competition and multiple other violations of her agreement, Lori Zaslow was a disloyal employee to Career Group. Records of her e-mail correspondences demonstrate that she was secretly passed e Career Group's trade secrets onto JBC. The Zaslows, through JBC, then proceeded to use these trade secrets to compete unfairly with Career Group.

**PARTIES, JURISDICTION AND VENUE**

2. Plaintiff Career Group, Inc. is a corporation organized and existing under the laws of the State of California with its principal place of business located at 10100 Santa Monica Boulevard, Suite 900, Los Angeles, CA 90067.

3. Upon information and belief, JBC is a corporation organized and existing under the laws of the State of New York with its principal place of business located at 136 East 55th Street, Suite 5G, New York, New York 10022.

4. Upon information and belief, defendant Lori Zaslow is domiciled and resides in the State of New York, in the Southern District.

5. Upon information and belief, defendant Bryan Zaslow is domiciled and resides in the State of New York, in the Southern District.

6. This Court has original diversity jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332.

7. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331.

8. The amount in controversy in this action exceeds $75,000 exclusive of interest and costs.

9. Personal jurisdiction exists over all of the defendants on the basis that New York is their residence, domicile, primary place of business and/or state of incorporation. Furthermore, all defendants transact and/or do business in the Southern District of the State of New York.

10. Venue is proper in this district pursuant to 28 U.S.C. § 1391(a).

**FACTS RELATING TO ALL CLAIMS**

11. Career Group is an administrative placement firm that searches for, screens, and ultimately places both temporary and permanent employees with the businesses that form its client base.

12. The fourthFLOOR Fashion division of Career Group specializes in matching employees with employers in the fashion, beauty, home furnishings, action sportswear and retail industries.

13. In order to satisfy the hiring needs of its clients, Career Group, including fourthFLOOR, has built and maintains a database of the resumes, requirements, preferences and contact information of thousands of persons in the industry.

14. Because the placement industry is a highly competitive

one with many firms competing to serve the same employers, the ability to quickly provide a client with a pool of qualified potential employees is of crucial importance to Career Group in its quest to maintain a competitive edge over other firms.

15. For this reason, Career Group has expended many thousands of dollars to constantly enlarge, improve, protect and update its database of job seekers. This database is kept confidential and constitutes a very important trade secret of Career Group.

16. On or about April 27, 2005, Lori Zaslow singed a contract that provided for her at-will employment with Career Group's fourthFLOOR Fashion division ("the Employment Contract"). As part of that contract, she acknowledged and agreed that the terms of her employment were subject to all the terms and conditions contained in Career Group's Employee Handbook.

17. On or about May 2005, Lori Zaslow commenced her employment with Career Group's fourthFLOOR division.

18. Just prior to Lori Zaslow's commencement of employment with Career Group, Lori and Bryan Zaslow both represented to Career Group as follows:

(a) JBC's business was limited to "temporary placements and payroll solutions";

(b) during all of her time spent in Career Group's office, Lori Zaslow would not perform any work for JBC and would not use any Career Group resources for the purposes of JBC; and

(c) she would not directly compete with Career Group or any of its divisions.

19. Upon commencement of her employment with Career Group, Lori Zaslow further represented to Career Group as follows:

(a) she would never contact or solicit any person or business that, at the time of contact, was a former or existing Career Group client or applicant for the benefit of JBC;

(b) she would not perform any services whatsoever for JBC while employed by Career Group;

(c) for a period of two years following the termination of her employment with Career Group that she would not contact any of Career Group's customers, clients or applicants;

(d) she would not use or disclose any of Career Group's proprietary information and would not solicit or attempt to influence any of Career Group's customers, clients or applicants to divert or direct their business to any entity in competition with Career Group.

20. In relevant part, Career Group's Employee Handbook provides as follows:

> **CONFLICTS OF INTEREST**
> Employees have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest. This policy establishes only the framework within which [Career Group] wishes the business to operate. The purpose of these guidelines is to provide general direction so that employees can seek further clarification on issues related to the subject of acceptable standards of operation. If you are in doubt, or if you engage in an activity that may cause a conflict of interest, information about the potential conflict must be reported to the Chief Executive Officer immediately.
> An actual or potential conflict of interest occurs when an employee is in a position to influence a decision

that may result in a personal gain for that employee or for a relative as a result of [Career Group]'s business dealings. For the purposes of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage.

While it is impossible to list every circumstance that may constitute a potential conflict of interest, the following examples will serve as a guideline:

1. No employee shall do business, seek to do business or compete with [Career Group] nor own an interest in any person, nonpublic company, or corporation that does business, seeks to do business, or competes with [Career Group] .

2. No employee shall solicit or accept from any third party any direct or indirect personal benefit resulting from or in any transaction involving [Career Group].

3. No employee shall solicit or accept directly or indirectly any payment or loan whatsoever, or any service, gratuity, entertainment, travel, pleasure outing, gift, or favor from any third party or the representative of any third party doing business, seeking to do business or competing with [Career Group]. A reasonable exception is allowed during the holiday season when business contacts traditionally seek to recognize superior service given throughout the year.

4. No employee shall for the purpose of personal benefit make, use or disclose any information in his possession as a result of his relationship with [Career Group] whether or not such information is classified as confidential, nor shall he or she purchase or sell securities or other property, real or personal, based upon any information of [Career Group] or third parties received in the course of this employment, whether or not such information is classified as confidential.

21. Career Group's Employee Handbook defines confidential information to include the names of Career Group's clients, the contact personnel at such clients, the names, addresses and telephone numbers of job seekers who registered with or were seeking to register with Career Group, the applications and resumes of such job seekers and any and all leads received by any

such job seekers.

22. With respect to disclosure of confidential information, Career Group's Employee Handbook provides, in part, that except as required in the course of employment with Career Group, the employee shall not disclose such confidential information without prior written consent to any third person. Career Group's Employee Handbook also states that disclosure of confidential information is grounds for disciplinary action up to and including possible discharge and legal action and that confidential information shall not be removed from Career Group's offices without the permission of the Chief Executive Officer.

23. At all relevant times, Bryan Zaslow and JBC were aware of the representations made by Lori Zaslow and her acknowledgment and agreement not to exploit Career Group's confidential information and trade secrets in any way.

24. Lori Zaslow did not have the permission of Career Group's Chief Executive Officer to take Career Group's confidential information and trade secrets.

25. Career Group made efforts to protect and guard the secrecy of its confidential information and trade secrets.

26. The information defined in Career Group's Employee Handbook and other information compiled by Career Group constitutes protectable trade secrets under the laws of New York and California.

27. With respect to conflicts of interest, Career Group's

Employee Handbook provides, in part, that an employee shall not do business, seek to do business, or compete with Career Group. Career Group's Employee Handbook further forbids an employee from using or disclosing for her own personal benefit, any information obtained as a result of her relationship with Career Group, regardless of whether such information meets the definition of confidential information contained in Career Group's Employee Handbook.

28. With respect to electronic media such as e-mail, Career Group's Employee Handbook provides that all computers, voice mail, electronic mail, and data stored in Career Group's technology systems are at all times the property of Career Group. Career Group explicitly reserved the right to monitor such communications.

29. As part of her employment duties with Career Group, Lori Zaslow regularly dealt with, used and had access to Career Group's trade secrets.

30. While Lori Zaslow worked for Career Group, she secretly worked for JBC in violation of the foregoing agreement and representations.

31. Lori Zaslow's e-mails from her Career Group e-mail account demonstrate that she misappropriated Career Group's trade secrets and confidential information for the benefit of JBC.

32. Lori Zaslow's e-mails from her final months at Career Group also demonstrate that Bryan Zaslow and JBC had knowledge that she took Career Group's trade secrets and confidential

information from Career Group and passed them onto JBC.

33. Upon information and belief, the Zaslows and JBC have exploited plaintiff's trade secrets and confidential information for their own benefit, thereby unfairly competing with and causing damage to Career Group.

34. As a result of the foregoing actions, on or about May 9, 2006, Lori Zaslow's employment was terminated by Career Group.

35. Lori Zaslow was provided with written notice of termination requesting that she return any documents containing Career Group's confidential information and trade secrets.

36. Lori Zaslow refused to return Career Group's confidential information and trade secrets.

**FIRST COUNT - MISAPPROPRIATION OF TRADE SECRETS**
**(against all defendants)**

37. Plaintiff repeats and realleges paragraphs 1 through 36 as though fully set forth herein.

38. Career Group's client and job seeker lists, including: a) the identity and contact persons at Career Group's clients; b) such clients' preferences and requirements; c) the names, addresses (both physical and e-mail) and the telephone numbers of job seekers who registered with or were seeking to register with Career Group; d) the applications and resumes of such job seekers and e) all leads received from Career Group's clients and job seekers, all constitute trade secrets belonging to Career Group.

39. By virtue of her position at Career Group, Lori Zaslow had access to Career Group's trade secrets and proprietary

information.

40. Lori Zaslow expressly agreed in writing and otherwise assumed a duty to keep confidential Career Group's trade secrets and confidential information.

41. Career Group has made appropriate efforts to maintain the secrecy of this information including but not limited to having Lori Zaslow agree in writing to the terms contained in the Employee Handbook.

42. During her time of employment with Career Group, Lori Zaslow misappropriated Career Group's trade secrets without authorization to do so and in violation of her agreement.

43. On information and belief, Lori and Bryan Zaslow and JBC have exploited and continue to exploit Career Group's trade secrets for their own gain in breach of Zaslow's agreement and duty not to do so.

44. On information and belief, Lori Zaslow has diverted customers and job seekers to herself, Bryan Zaslow and JBC from Career Group when she was not entitled to do so.

45. Career Group has sustained lost profits and other damage by reason of the improper conduct resulting from the defendants' diversion of customers and job seekers.

**SECOND COUNT -BREACH OF DUTY OF LOYALTY / FIDUCIARY DUTY**
**(against Lori Zaslow)**

46. Plaintiff repeats and realleges paragraphs 1 through 36 as though fully set forth herein.

47. Lori Zaslow has violated the common law duty of

loyalty/ fiduciary duty to Career Group arising under her employment relationship.

48. During the period of her disloyalty, Career Group paid Lori Zaslow thousands of dollars in commissions.

49. As a consequence of the foregoing, Career Group has suffered, and will continue to suffer damages including but not limited to commission payments made to Lori Zaslow.

**THIRD COUNT – COMMON LAW UNFAIR COMPETITION**
**(against all defendants)**

50. Plaintiff repeats and realleges paragraphs 1 through 36 as though fully set forth herein.

51. Defendants' conduct has directly and proximately damaged Career Group and constitutes unfair competition under the common law of the states of New York and California.

52. As a consequence of the foregoing, Career Group has suffered, and will continue to suffer damages.

**FOURTH COUNT – BREACH OF CONTRACT (against Lori Zaslow)**

53. Plaintiff repeats and realleges paragraphs 1 through 36 as though fully set forth herein.

54. Lori Zaslow entered into a contract with Career Group (identified *supra* as the "Employment Contract") on or about April 27, 2005.

55. By the acts identified herein, Lori Zaslow breached the Employment Contract.

56. As a result of Lori Zaslow's breaches of the Employment Contract, Career Group has suffered and will in the future suffer

damages in an amount to be determined at trial.

**FIFTH COUNT - BREACH OF IMPLIED COVENANT OF GOOD FAITH**
**(against Lori Zaslow)**

57. Plaintiff repeats and realleges paragraphs 1 through 36 as though fully set forth herein.

58. Under New York law, every contract contains by operation of law a covenant of good faith and fair dealing forbidding a contracting party from doing anything that will have the effect of destroying or injuring the right of another party from receiving the fruits of the contract.

59. By the acts described herein, Lori Zaslow breached the covenant of good faith and fair dealing implied by law into the Employment Contract.

60. As a result of Lori Zaslow's breaches of the covenant of good faith and fair dealing implied by law into the Employment Contract, Career Group has suffered and will in the future suffer damages in an amount to be determined at trial.

**SIXTH COUNT - CONVERSION**
**(against all defendants)**

61. Plaintiff repeats and realleges paragraphs 1 through 36 as though fully set forth herein.

62. Defendants' conduct, by improperly taking for their own use and benefit the trade secrets and proprietary information belonging to the plaintiff, directly and proximately damaged Career Group and such conduct constitutes conversion under the common law of the State of New York.

**SEVENTH COUNT - TORTIOUS INTERFERENCE**
**WITH PROSPECTIVE ECONOMIC ADVANTAGE**
**(against all defendants)**

63. Plaintiff repeats and realleges paragraphs 1 through 36 as though fully set forth herein.

64. Plaintiff had a prospective business relationship with its job applicants.

65. By conspiring with Lori Zaslow to take the job applicant's information from Career Group, Bryan Zaslow and JBC interfered with that relationship.

66. Defendants used unfair, improper and dishonest means to interfere with that relationship.

67. As a consequence of the foregoing, Career Group has suffered, and will continue to suffer damages in an amount to be determined at trial.

**EIGHTH COUNT- MISAPPROPRIATION (against all defendants)**

68. Plaintiff repeats and realleges paragraphs 1 through 36 as though fully set forth herein.

69. Career Group has invested substantial time and money in development of its confidential information and trade secrets.

70. Lori Zaslow has appropriated Career Group's property at little or no cost to herself.

71. Career Group has been injured by Lori Zaslow's conduct.

**NINTH COUNT- UNJUST ENRICHMENT (against Lori Zaslow)**

72. Plaintiff repeats and realleges paragraphs 1 through 36

as though fully set forth herein.

73. Lori Zaslow received a benefit from Career Group in the form of commissions at a time when she was disloyal to Career Group.

74. It would be unjust to allow Lori Zaslow to retain such benefit at Career Group's expense.

**WHEREFORE, CAREER GROUP, INC. HEREBY DEMANDS** judgment against defendants as follows:

A. Permanently enjoining Lori Zaslow, Bryan Zaslow, Jonathan Beth Consultants, Inc. and its officers, directors, employees, attorneys and all those acting in concert with them from using any of the information taken from Career Group, Inc. or having any further contact with any of Career Group, Inc.'s clients or job applicants in existence at the time that Lori Zaslow left Career Group and furthermore, affirmatively directing defendants to return any such information in their possession to plaintiff;

B. Ordering an accounting of all commissions and other revenues earned by defendants as a result of the use of Career Group, Inc.'s trade secrets and proprietary information;

C. Ordering a return of all sums of money, including commissions, paid to Lori Zaslow during the period of her disloyalty to Career Group, Inc.

D. Awarding Career Group, Inc. its damages in an amount to be determined at trial, but in no event less than $75,001, as follows: all profits realized by defendants as a result of their unfair competition, breach of duty, misappropriation of Career Group, Inc.'s trade secrets, conversion, tortious interference with prospective economic advantage and Lori Zaslow's breach of contract and the implied covenant of good faith and fair dealing and the costs of this action.

E. Awarding Career Group, Inc. punitive damages in an amount to be determined at trial;

F. Awarding Career Group, Inc. its reasonable attorney's fees; and

G. Granting such other and further relief as to this Court seems just and proper.

Dated: New York, New York
November 6, 2006

THE LUSTIGMAN FIRM, P.C.

By: ______________________
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ATTORNEYS FOR PLAINTIFF

**JURY TRIAL DEMANDED**

Plaintiff CAREER GROUP, INC., hereby requests a trial by jury on all claims so triable.

Dated: New York, New York
November 6, 2006

THE LUSTIGMAN FIRM, P.C.

By: ______________________

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